IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 1980 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 03/03/2004 in WP NO : 3061 OF 2004 on the file of the High Court.)

Between:

1 Polisetty Nagalakshmi, w/o late Rangarao,
r/o Macharla, Guntur District.
2 Polisetty Gopichand, s/o late Rangarao,
3 Polisetty Priyanka, d/o late Rangarao,
(Appellants 2 and 3 are being minors rep., by mother Polisetty

Nagalakshmi i.e., 1st appellant)

..... APPELLANT(S)

AND

1 The Andhra Pradesh Transco, rep., by its Managing Director, o/o

Lakdikapul, Hyderabad.
2 The Divisional Engineer (Operations), A.P.Transco, Guntur, Guntur

District.

.....RESPONDENT(S)

Counsel for the Appellant:MR.RAJA REDDY KONETI

Counsel for the Respondents: MR.KANAKAMEDALA RAVINDRA KUMAR

The Court at the admission stage made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Learned single Judge dismissed the writ petition by the order impugned in the appeal at the admission stage itself by making reference to a number of decisions of the Supreme Court and ultimately observing that the writ petition cannot be decided because of disputed questions of fact.

The procedure adopted by the learned single Judge in dismissing the writ petition at limine, at a stage when the respondents have not placed their version on record and observing that disputed questions are involved, is not in consonance with law. It is only when respondents file their counter affidavit that opinion has to be formed whether facts alleged by the petitioner are or are not disputed ones and that whether the court in view of those disputed facts would not like to exercise its extraordinary jurisdiction. The specific case of the petitioner/appellant No.1 was that when her husband reached clock tower center, a live electrical wire fell on him and in turn when the appellant's husband tried to push it aside, he could not succeed since it was a live wire. He fell down from the cycle. People around pushed the wire aside from the body of the husband and immediately he was shifted to hospital where he succumbed to injuries and the post mortem report revealed that the deceased died of cardiac arrest due to electrocution. Thus there was a claim made by the appellants because of the negligence on the part of the employees of the respondents. From the allegations made in the petition, it cannot be presumed that there are disputed questions of fact at this stage.

Accordingly, we will allow the appeal, set aside the impugned order passed by the learned single Judge with direction to hear and decide the writ petition afresh in accordance with law after allowing opportunity to respondents to file their counter affidavit. Parties to appear before the learned single Judge on **21-2-2005** and before which date, counter affidavits will be filed by the respondents.

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DEVINDER GUPTA, CJ

25-1-2005

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M.NARAYANA REDDY, J

Tvr

To

1 The Managing Director, Andhra Pradesh Transco,

Lakdikapul, Hyderabad.
2 The Divisional Engineer (Operations), A.P.Transco, Guntur, Guntur

District.

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